

**Meeting Minutes**  
**Iowa Child Abuse Registry Meeting**  
**October 21, 2011**

**Location:** Neal & Bea Smith Law Center; Second Floor; Clinic Library; 2400 University Avenue; Des Moines, Iowa.

**Members Present:** Vern Armstrong, Jean Davis, Anna Dey, Jerry Foxhoven, Shellie Mackel, Denise Moore, Chuck Palmer, John Pollak, Steve Scott, Mike Sorci, Diane Stahle, Deborah Thompson, Barbara Van Allen.

**Members Absent:** Susan Ault, Ruth Cooperrider, Jeff Farrell, Keith Kudej, Jana Lewis, Amber Markham, Wendy Rickman, Rod Roberts and Beverly Zylstra.

**Visitors Present:** Kristie Oliver and Brad Trow.

**Pre-Meeting Meeting Handouts:** Agenda; Minutes from the meeting of September 22, 2011.

**Meeting Handouts:** Agenda; Minutes from the meeting of September 22, 2011; Summary Sheet of “Potential Solutions” identified in the previous meeting; Work Plan of the Group; Section 7 of House File 562; Summary of Key Requirements of Section 7, House File 562.

**The meeting was called to order at 10:00 a.m.**

**Introductions and Welcome:** All members and guests were welcomed and introduced themselves. Jerry Foxhoven passed out the meeting exhibits and reviewed the Agenda as well as the Summary Sheet of “Potential Solutions” identified in the previous meeting.

**Potential Solutions Previously Identified.** The group addressed each of the potential solutions identified in the last meeting individually as follows:

(1) The Attorney General’s office has indicated that they can shift resources on a temporary basis to relieve a current backlog: Due to the resolution of the other issues related to cases where employment issues are identified, Jean Davis and Diane Stahle agreed that there is no need to shift resources at this time. However, Diane Stahle indicated that the Attorney General’s Office was willing to shift available resources in the future if a delay developed in “priority cases” (those cases involving employment issues. The group indicated that they may readdress this issue if lengthy delays in “non-priority” cases continued after other reforms are implemented to reduce contested case appeals.

(2) No expedited schedule would be required, allowing parties to agree to delay the Pre-hearing Conference date to intentionally allow time for the alleged perpetrator to complete services;(3) DIA and the Attorney General's office could modify the notice of pretrial order and procedure for Pre-hearing Conferences to specifically identify the issue of employment as being involved in the case; (4) Cases involving employment issues could be assigned to a "fast track/expedited" schedule: Jean Davis reported that, since October 1, 2011 (approximately 3 weeks), there were a total of 293 Scheduling Orders issues. Less than 20% of this involved "priority cases" (ones involving employment issues). The Attorney General's Office and the Department of Inspections and Appeals have worked together informally to resolve these issues already. The forms for prehearing conferences have been modified to identify if employment issues are involved or have the potential to be involved in the case. If employment issues are potentially involved, the parties are offered an expedited hearing (within 2 weeks) if desired. No parties are forced to have an expedited hearing if not desired. Jean Davis reported that, during the two-week period from 9/28/11 and 10/17/11, there were a total of 64 prehearing conferences. Of those 64 prehearing conferences, 12 involved mandatory record checks (employment issues). Of the 12 involving employment issues, 6 were settled or abandoned at the prehearing conference. In the remaining 6 cases, all were offered hearing dates within 2 weeks. Dates for the hearings were set for: 10/19/11 (case was settled before the hearing); 10/26/11 (case was settled before the hearing); 11/2/11; 11/14/11; 1/18/12; and 2/15/12. (The two later hearings were set at a later date at the request of the parties).

(5) Amend the statute to delete party status for parents not alleged to be an abuser in appeals of child abuse registry issues; (6) Allow DHS reviews of the finding to continue but deny the availability of Contested Case Review to cases where abuse is not confirmed: After a lengthy discussion of these issues, the group agreed that the statutory provisions relating to appeals of placement on the child abuse registry should be changed as follows: Subjects of the reports shall continue to have access to DHS file information, receive copies of the reports and any addenda issued, and have full access to both contested case decisions and the final decision of the Director. Subjects of the report shall also be able to request that DHS correct portions of the report which they believe contain error. In addition, subjects of the report shall also have the opportunity ask the Department to reevaluate the report in light of new evidence. However, the contested case hearing process shall be limited to alleged perpetrators who have been adversely affected by either a confirmed and placed or a confirmed not placed disposition. At the time that the notice of decision is issued, subjects shall be informed about the appeal process and information about the intervention process for contested case proceedings shall be provided. Any request for intervention filed shall be ruled upon by the Administrative Law Judge using the contested case procedural rules.

(7) Amend the statute allowing the Administrative Law Judge to dismiss the appeal on legal grounds: The members agreed to support this proposal, which would allow the use of a Motion for Summary Judgment in Contested Cases on placement on the child abuse registry.

(8) When a CINA petition or a criminal charge is filed as a result of the alleged abuse, stay the appeal pending the outcome at the adjudicatory hearing or the criminal charge: The members agreed to support this proposal, with the proviso that the stay of the administrative appeal in such cases would continue until the completion of the direct appeal.

**Child Abuse Worker Training:** The discussion on this issue that began at the last meeting was continued. Jean Davis reported on her informal poll of the administrative law judges about their experience in hearings as to whether or not there appear to be any significant training issues for DHS workers and communicated these issues to DHS representatives who agreed to address these worker training issues. Diane Stahle reported that the Attorney General's Office conducts training for DHS on issues that they identify as necessary from time to time. Jerry Foxhoven called for discussion on the issue and for action to be taken or declined on the issue of improved training of child abuse workers. It was recommended that DHS continue to work with the Attorney General's Office and DIA to informally identify training issues on a regular (perhaps quarterly) basis.

**Differential Response:** The members discussed the two major types of differential response that can and should be addressed. The first type is referred to as a "front end" differential response, and involves the approach taken from the very moment that a call of suspected child abuse is received. The second type is referred to as a "back end" differential response, and involves the approach taken after child abuse is established and relates to the decision about the placement on the child abuse registry that is involved after such a finding.

(a) Front End Differential Response: The members agreed that the "Front End" type of differential response should be explored by the State of Iowa for a number of reasons, including but not limited to the move by other states in this area and the push by the federal government for a consideration of the issue. However, the members believe that a full discussion and review of this issue, along with the development of proposals in this area, would involve much more time for the matter to be properly addressed by this workgroup before January 1<sup>st</sup>. The members therefore modified their workplan to eliminate a discussion of a "front end" differential response at the next meeting, and to replace that discussion item with a further discussion of a back end differential response. The members recommend that the legislature consider a longer term method of approaching this issue.

**(b) Back End Differential Response:** The members identified the three areas of change that they would like to discuss at the next meeting: (1) varying the length of time that a person is placed on the child abuse registry; (2) making provisions for a way for someone on the child abuse registry to be removed from the registry before expiration of the time for the original placement on the registry; and (3) determining rules concerning the sealing of records upon removal from the child abuse registry.

**Member Resources:** Jean Davis agreed to provide the citations for three Iowa Supreme Court decisions that were discussed in the meeting: *Grant*, *Hildreth*, and *Robinson*. Jerry Foxhoven agreed to research what other states have implemented in the area of differential response at the back end.

**Future Meetings:** Future meetings for the workgroups were previously set: Friday November 18<sup>th</sup>; and Friday December 2<sup>nd</sup>. All meetings will begin at 10:00 a.m. and conclude at noon and will be held at the Drake Legal Clinic at 2400 University Avenue in Des Moines.

**Public Comment:** Jerry Foxhoven called for public comment. None was offered.

**The meeting was adjourned at 11:55 a.m.**

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Jerry Foxhoven, Meeting Facilitator